

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Moriguchi et al.  
Appl. No.: 10/826,233  
Conf. No.: 9637  
Filed: April 16, 2004  
Title: GRAPHITE POWDERS SUITED FOR NEGATIVE ELECTRODE MATERIAL  
OR LITHIUM ION SECONDARY BATTERY  
Art Unit: 1745  
Examiner: Unknown  
Docket No.: 112857-500

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO NOTICE OF OMITTED ITEMS**

Sir:

This Response is submitted in response to the Notice of Omitted Items issued on August 18, 2004 regarding the above-referenced patent application. In the Notice, the Patent Office has alleged that pages 68, 69 and 71 of the specification appear to have been omitted from the application. Applicants believe that the alleged omitted items were provided with the present application as filed for at least those reasons set forth below.

At the outset, the present application is a continuation application of U.S. Patent Application No. 09/292,834 ("prior application") that issued as U.S. Patent No. 6,764,767 on July 20, 2004 and thus was pending on the filing date of April 16, 2004 regarding the present application. In addition, the entire disclosure of the prior application was incorporated by reference as indicated, for example, in the Utility Patent Application Transmittal Form submitted with the present application and attached herewith as Exhibit A. Thus, as a matter of law, the entire specification of the prior application including pages 68, 69, and 71 was part of the present application as originally filed. Therefore, the alleged omitted items should be considered as filed with the present application based on at least these reasons.

Further, Applicants resubmitted a copy of the entire specification on May 7, 2004 pursuant to the Patent Office's request. Attached herewith as Exhibit B are the mailing and transmittal forms evidencing the resubmission of a duplicate copy of the specification in its

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entirety regarding the present application. Thus, again, Applicants respectfully submit that the alleged omitted items were provided with the specification as originally filed on April 16, 2004 and further resubmitted in duplicate form on May 7, 2004.

Accordingly, Applicants respectfully request that the Notice be withdrawn and that an early and favorable examination on the merits be made.

If the Patent Office should have any questions regarding Applicants' Response, Applicants kindly request that the Patent Office contact the undersigned attorney of record directly in an attempt to promote prompt resolution to any further alleged and disputed issues regarding same.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY 

Thomas C. Basso  
Reg. No. 46,541  
P.O. Box 1135  
Chicago, Illinois 60690-1135  
Phone: (312) 807-4310

Dated: October 18, 2004



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/826,233	05/07/2004	Koji Moriguchi	112857-500

BELL, BOYD & LLOYD LLC  
 P.O. Box 1135  
 Chicago, IL 60690-1135



CONFIRMATION NO. 9637

## FORMALITIES LETTER



\*OC000000013567711\*

Date Mailed: 08/18/2004

## NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

## FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Page(s) **68,69,71** of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required.

A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

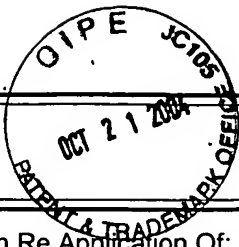
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*A copy of this notice MUST be returned with the reply.*

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PART 2 - COPY TO BE RETURNED WITH RESPONSE



**TRANSMITTAL LETTER**  
**(General - Patent Pending)**

Docket No.  
112857-500

In Re Application Of: Moriguchi et al.

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/826,233	April 16,, 2004	Unknown	29175	1745	9637

Title: **GRAPHITE POWDERS SUITED FOR NEGATIVE ELECTRODE MATERIAL OR LITHIUM ION SECONDARY BATTERY**

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

Copy of Notice of Omitted Items (2 pgs.); Response to Notice of Omitted Items (12 pgs.); Petition Fee \$130.00; and return receipt postcard.

in the above identified application.

- ☐ No additional fee is required.
- ☒ A check in the amount of \$130.00 is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. 02-1818 as described below.
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- ☐ Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

*Signature*

Dated: October 18, 2004

Thomas C. Basso  
Reg. No. 46,541  
BELL, BOYD & LLOYD LLC  
P.O. Box 1135  
Chicago, IL 60690-1135  
Phone: 312-807-4310

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Koji Moriguchi et al.  
Appl. No.: 10/826,233  
Filed: April 16, 2004  
Title: GRAPHITE POWDERS SUITED FOR NEGATIVE ELECTRODE MATERIAL  
OR LITHIUM ION SECONDARY BATTERY  
Art Unit: Unknown  
Examiner: Unknown  
Docket No.: 112857-500

Mail Stop Patent Application  
Commissioner for Patents  
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Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING BY EXPRESS MAIL UNDER 37 CFR 1.10**

Sir:

I hereby certify that the following documents relating to the above-identified application:

1. Transmittal Letter (duplicate);
2. Response to Return Receipt Postcard Notation (2 ps.);
3. Copy of Return Receipt Postcard;
4. Duplicate copy of Specification (75 pgs.); and
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on May 7, 2004.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

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Name of Person Mailing Correspondence

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Signature

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In re Patent Application of: Koji Moriguchi et al.

**GRAPHITE POWDERS SUITED FOR NEGATIVE ELECTRODE  
MATERIAL OR LITHIUM ION SECONDARY BATTERY**

Docket No.: 112857-500; USSN: 10/826,233

On the date stamped hereon the U.S. Patent and Trademark Office  
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**TRANSMITTAL LETTER  
(General - Patent Pending)**

Docket No.  
**112857-500**

In Re Application Of: **Koji Moriguchi et al.**

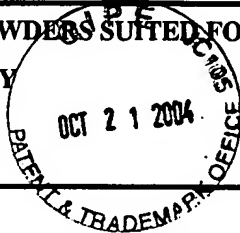
Serial No.  
**10/826,233**

Filing Date  
**April 16, 2004**

Examiner  
**Unknown**

Group Art Unit  
**Unknown**

Title: **GRAPHITE POWDERS SUITED FOR NEGATIVE ELECTRODE MATERIAL OR LITHIUM ION  
SECONDARY BATTERY**



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in the above identified application.

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as described below.
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- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.

*Signature*

Dated: **May 7, 2004**

**Thomas C. Basso  
Reg. No. 46,541  
BELL, BOYD & LLOYD LLC  
P.O. Box 1135  
Chicago, IL 60690-1135  
Phone: 312-807-4310**

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Koji Moriguchi et al.  
Appl. No.: 10/826,233  
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Docket No.: 112857-500

Commissioner for Patents  
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**RESPONSE TO RETURN RECEIPT POSTCARD NOTATION**

This is in response to the return receipt postcard we received from the United States Patent and Trademark Office on April 27, 2004.

REMARKS


Applicants respectfully submit that the return receipt postcard received back from the U.S. Patent Office in connection with the present application was received on or about April 27, 2004.

Per your hand-written notation on the postcard, we have enclosed a duplicate copy of the Specification (75 pgs.) along with a copy of the return receipt postcard.

Applicants kindly request that the undersigned attorney of record be contacted directly with any questions regarding this matter.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY   
Thomas C. Basso  
Reg. No. 46,541  
P.O. Box 1135  
Chicago, Illinois 60690-1135  
Phone: (312) 807-4310

Dated: May 7, 2004